

REMARKS

The Office Action and the cited and applied reference have been carefully studied. No claim is allowed. Claims 3-6 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 3 and 5 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite and as being incomplete for omitting essential steps. This rejection is obviated by the amendment to the claims.

The recitations in claims 3 and 5 of expression from the plant promoter in a tissue-specific manner at a site and a stage required for reconstitution of plant cell wall xyloglucan and of a gene for controlling plant morphology are supported in the specification on page 7, lines 3-10 and page 64, lines 14-24. The recitation of the plant promoter having a nucleotide sequence selected from the group consisting of SEQ ID NOs: 1, 2, 3, 4, 5, 6, 7, and 8 is supported by the specification at page 7, line 23 to page 8, line 1 and the recitation of "has a nucleotide sequence hybridizable..." is supported by the disclosure in the specification at page 8, lines 2-7.

Claims 3-6 have been rejected under 35 U.S.C. 102(e) as being anticipated by Nishitani et al. (US Patent No. 5,516,694). The examiner states that Nishitani teaches a method

for regulating (controlling) the morphology of a plant wherein Nishitani discloses that the method comprises transforming a plant with endoxyloglucan transferase gene (specific for organ or tissue or to a specified stage of the life cycle) ligated to a constitutive promoter originating in another gene (useful gene) in such a manner as to allow the expression of a gene encoding endo-xyloglucan transferase and its activity (column 13, lines 27-65 and column 14, lines 8-41). It is said that the cassette for expression of endoxyloglucan transferase includes a vector (column 13, lines 7-26). The examiner further states that Nishitani discloses transgenic plants and regeneration of transformed plants (column 30, lines 30-67, column 31, lines 1-67 column 32, lines 1-67, column 33, lines 1-67 and column 34, lines 1-34). It is the examiner's position that the disclosure of Nishitani meets the limitations in the instant claims 3-6. This rejection is respectfully traversed.

Nishitani discloses that promoter sequences can be used to allow expression of endo-xyloglucan transferase but does not identify the promoter by sequence. By contrast, the plant promoter recited in the amended claims is specified with reference to specific nucleotide sequences of promoters whose activities are demonstrated in the Examples of the specification. Accordingly, the presently claimed invention cannot be anticipated by Nishitani.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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VERSION WITH MARKING TO SHOW CHANGES MADE

Claims 3 and 5 have been amended as follows:

3 (Amended). A method for controlling the morphology of a plant, comprising:

transforming a plant with an isolated DNA molecule comprising a plant promoter ligated to a useful gene for controlling plant morphology in a state capable of expressing the useful gene, wherein the gene for controlling plant morphology is expressed from the plant promoter in a tissue-specific manner at a site and a stage required for reconstitution of plant cell wall xyloglucan and wherein the plant promoter has a nucleotide sequence selected from the group consisting of SEQ ID NOS: 1, 2, 3, 4, 5, 6, 7, and 8, or has a nucleotide sequence hybridizable to any one of SEQ ID NOS: 1, 2, 3, 4, 5, 6, 7, or 8 and having the promoter activity in at least one of plants, plant cells or transgenic plants regenerated from the plant cells is natively located in plants upstream of and controls the expression of a gene encoding a polypeptide having endoxyloglucan transferase activity,; and

obtaining a plant whose morphology is controlled.

5 (Amended). A method for controlling the transgenic plant morphology, comprising the steps of:

transforming a plant cell with an isolated DNA molecule comprising a plant promoter ligated to a ~~useful~~ gene for controlling plant morphology in a state capable of expressing the useful gene, wherein the gene for controlling plant morphology is expressed from the plant promoter in a tissue-specific manner at a site and a stage required for reconstitution of plant cell wall xyloglucan and wherein the plant promoter has a nucleotide sequence selected from the group consisting of SEQ ID NOs: 1, 2, 3, 4, 5, 6, 7, and 8, or has a nucleotide sequence hybridizable to any one of SEQ ID NOs: 1, 2, 3, 4, 5, 6, 7, or 8 and having the promoter activity in at least one of plants, plant cells or transgenic plants regenerated from the plant cells is natively located in plants upstream of and controls the expression of a gene encoding a polypeptide having endoxyloglucan transferase activity,; and

regenerating a transgenic plant from the transformed plant cell; and

selecting a transgenic plant whose morphology is controlled.